

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Retail Access Optimization Initiative

Docket No. N2011-1

**AMERICAN POSTAL WORKERS UNION, AFL-CIO INITIAL BRIEF
NOTICE OF ERRATA**
(November 7, 2011)

On Friday, November 4, 2011, the American Postal Workers Union, AFL-CIO (APWU) filed its Initial Brief in this Docket. The Brief filed contained several typographical errors that are being corrected in this Errata. Each correction is identified below and has been included in the attached, revised Initial Brief.

<u>Original</u>	<u>Revised</u>
P. 6 indented quote change "areas"	to "area"
P. 6 last sentence change "service"	to "services"
P. 7 2 nd full paragraph, first sentence change "is"	to "will be"
P. 14 first word change "closures"	to "closure"
P. 14 last sentence	insert "as" between "requirements" and "the"
P. 15 heading "A"	delete first "Process"
P. 16 1 st paragraph last sentence change "and"	to "an"
P. 17 2 nd full paragraph last sentence	insert "of" between "types" and "non-responsive"
P. 23 last line before quote	insert "with" between "replied" and "the"
P. 24 first line after quote change "addressed"	to "addresses"
P. 25 fourth line change "conclusion"	to "closure"
P. 26 fifth line after quote	delete "to" between "delivery" and "from"

P. 26 seventh line after quote change “dramatic”	to “dramatically”
P. 26 third line from the bottom change “revised”	to “revise”
P. 26 second line from the bottom	delete first “take”
P. 27 eighth line after “C” heading	change “no one” to “nowhere”
P. 28 last sentence first full paragraph	change “post” to “postal”
P. 29 first sentence under “D” heading	change “PO-1010” to “PO-101”
P. 29 second sentence second paragraph	insert “to” between “facility” and “help”
P. 30 second sentence	insert “help” between “will” and “ensure”
P. 33 Section 321.2 last line	delete “be”
P. 34 second sentence change “office”	to “offices”
P. 34 last sentence	insert “to revise the RAOI selection criteria and” between “Service” and “to”

APWU regrets any inconvenience to the parties but believes that no party will be prejudiced by this filing which merely corrects errors to ensure the clarity of our brief.

Respectfully submitted,

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**BEFORE THE
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**INITIAL BRIEF OF THE
AMERICAN POSTAL WORKERS UNION, AFL-CIO
[ERRATA]**

November 7, 2011

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**INITIAL BRIEF OF THE
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[ERRATA]
(November 7, 2011)**

The American Postal Workers Union, AFL-CIO (APWU) hereby presents its initial brief in Docket No. N2011-1.

I. Introduction

On July 27, 2011, the United States Postal Service (USPS or Postal Service) filed a Request for an Advisory Opinion pursuant to Section 3661 of the Postal Accountability and Enhancement Act (formerly the Postal Reorganization Act, referred to herein as PAEA or the Act). It requests that that Postal Regulatory Commission (PRC) “consider whether it has jurisdiction to review this matter under section 3661(c)” and if the Commission determines to exercise jurisdiction in this case the Postal Service also “requests that the Commission’s advisory opinion affirm that the objectives and implementation plan for the Retail Access Optimization Initiative, and the changes in the nature of postal services that would result from it all conform to applicable policies of Title 39, United States Code.”¹

The Request was accompanied by written testimony of James Boldt (USPS-T-1) and numerous library references. Dean Granholm also appeared as an institutional witness on behalf of the Postal Service during oral cross examination, though he provided no written testimony. The APWU filed rebuttal testimony of one witness, Anita Morrison (APWU-T-1). Several other parties also filed rebuttal testimony. Specifically, the Public Representative

¹ Request of the United States Postal Service for an Advisory Opinion on Changes in the Nature of Postal Services, pp. 1-2,12 (July 27, 2011).

filed rebuttal testimony of two witnesses, Nigel Waters (PR-T-1) and John P. Klingenberg (PR-T-2); the National Association of Postmasters of the United States filed rebuttal testimony of Rita Zilinski (NAPUS-T-1) and Curt Artery (NAPUS-T-2); the National Newspaper Association filed rebuttal testimony from Max Heath (NNA-T-1); the National League of Postmasters filed rebuttal testimony from Mark Strong (NLP-T-1) and Mayor Donald Hobbs (NLP-T-2); and the Center for Responsive Law filed the rebuttal testimony of one witness, Jeffrey Musto (CSRL-T-1). The Postal Service filed surrebuttal testimony of two witnesses, David Ruiz (USPS-SRT-1) and James Boldt (USPS-SRT-2).

Section 3661(b) of Title 39 states:

When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change.²

The “change in the nature of postal services” at issue in this docket results from the implementation of the Postal Service Retail Access Optimization Initiative (RAO Initiative or Initiative). The Initiative is a “centrally-directed plan” which “examine[s] whether to continue providing retail and other services and products at approximately 3650 of the more than 32,000 Post Offices, stations and branches in its retail network.”³ The principle objective of the Initiative is to “evaluate certain categories of facilities within the postal retail network to determine whether their numbers can be reduced while the Postal Service still ‘maintain[s] postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.’”⁴

The Initiative began by identifying four categories of facilities for review for possible discontinuance. These include:

- 2825 Post Offices with low earned workload and no greater than \$27,500 in total annual revenue;
- 384 stations and branches that earned fiscal year 2010 (FY) revenue of less than \$600,000, that had FY 2010 revenue less than the average for FYs 2008 and 2009,

² 39 U.S.C. § 3661(b)

³ USPS Request at p. 1.

⁴ Id. at 3-4, quoting 39 U.S.C. § 403(b)(3).

and that are located within two miles of at least five postal retail and/or alternate access sites;

- 178 retail annexes that had FY 2010 revenue of less than \$1 million and are located within a half-mile of at least five postal retail and/or alternate access site; and
- 265 Post Offices, stations and branches that were undergoing locally-initiated discontinuance review independently of the RAO at the time of the Postal Service's recent amendment to its retail facility closing regulations.⁵

After the facilities were identified, the Postal Service directed local managers to begin initial discontinuance feasibility studies of the RAO Initiative candidate facilities.⁶ Review of the facilities for possible discontinuance will apply the revised Handbook PO-101 during a rolling ten-week period beginning July 26, 2011.⁷

The Postal Accountability and Enhancement Act requires that the PRC issue an advisory opinion on the Postal Service RAO Initiative's compliance with the Act.

Section 3661(c) states:

The Commission shall not issue its opinion...until an opportunity for a hearing on the record under sections 556 and 557 of Title 5 has been accorded... . The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his [or her] judgment the opinion **conforms to the policies established under this title**. [Emphasis added]⁸

As explained more fully below, APWU urges the Commission to issue an advisory opinion finding that the RAO Initiative does not conform to the policies reflected in Title 39.

Specifically, the Commission should find that application of the Initiative's selection criteria of "low earned workload and no greater than \$27,500 in total annual revenue" violates

Section 101(b) of Title 39 which requires

The Postal Service shall provide a **maximum degree** of effective and regular services to **rural areas, communities and small towns where post offices are not self-sustaining**. **No small post office shall be closed solely for operating at a deficit**, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities. [emphasis added]

⁵ Id. at pp. 5-6.

⁶ Id. at p. 9.

⁷ Id.

⁸ 39 U.S.C. § 3661(c).

The Commission should also find that the RAO Initiative violates the requirement that the Postal Service not “make any undue or unreasonable discrimination among users of the mails.” 39 U.S.C. § 403(c). Finally, the Commission should find that the application of the revised Handbook PO-101 procedure for discontinuance review does not conform to the requirements of Section 404(d) relating to post office closings and consolidations in violation of the Act and Commission precedent.

II. The Commission Has Jurisdiction to Issue an Advisory Opinion

Longstanding judicial and Commission precedent clearly support jurisdiction in this case. In Buchanan v. United States Postal Service, three Congressmen, acting on behalf of a class of postal users, sought to enjoin the Postal Service from implementing three programs prior to seeking an advisory opinion from the Postal Rate Commission pursuant to Section 3661 of Title 39.⁹ The three programs at issue were (1) a plan to consolidate and eliminate district offices throughout the United States; (2) a retail analysis program (“RAP”); and (3) the “national bulk mail system program.”¹⁰ The United States District Court for the Northern District of Alabama granted a temporary injunction for the consolidation of district offices and the RAP.¹¹ The Postal Service appealed this decision. On appeal, the Fifth Circuit Court of Appeals upheld the District Court’s decision pertaining to the RAP.¹² In its decision, the Court enumerated “three factors that must coexist before § 3661 applies.”¹³

First, there must be a ‘change.’ ... Second, the change must be ‘in the nature of postal services.’ ... Third, the change must affect service ‘on a nationwide or substantially nationwide basis.’ A broad geographical area must be involved.¹⁴

In upholding the lower court’s decision, the Court of Appeals found that there had been a “sufficient showing of substantial likelihood the plaintiffs would prevail on the merits,” that is, all three factors had likely been met, including a sufficient showing that the retail analysis program represented a “change in the nature of postal services which will generally affect

⁹ 506 F.2d 259 (5th Cir. 1975).

¹⁰ Id. at 262.

¹¹ Id.

¹² Id. at 266-267.

¹³ Id. at 262.

¹⁴ Id. at 262-263.

service on a nationwide or substantially nationwide basis.”¹⁵ Like the RAO Initiative at issue in this Docket, RAP involved a process for analyzing current retail facilities to optimize the network to provide effective service.¹⁶

In its Request, the Postal Service concedes that “should retail operations at any postal facility be discontinued, postal patrons accustomed to obtaining products and services at that location will experience a change in service by virtue of having to obtain them at another nearby postal retail facility or an alternate postal retail access channel.”¹⁷ In its Request, the Postal Service also concedes, at least until “definitive information to the contrary emerges,” that the “changes in service resulting from the Initiative could be at least ‘substantially nationwide,’ within the meaning of 39 U.S.C. § 3661(c).”¹⁸ As of October 31, 2011, 3457 of the original 3652 facilities remain on the list for study for possible discontinuance.¹⁹ Facilities under review exist in 49 states²⁰ and the District of Columbia. Clearly, a “broad geographical area” is implicated in this list.

Moreover, while the Postal Service alludes to the possibility that “definitive information” could become available that would challenge the Commission’s jurisdiction, presumably that the list of facilities under review will be continually whittled down, the Commission made clear in its Docket No. N75-1 Advisory Opinion that it considers not just the effect of a program, but also its goal. The Postal Service has indicated that the “objective of the RAO Initiative is to evaluate certain categories of facilities within the retail network to see if their numbers can be reduced.....It is expected that in pursuing this objective the Postal Service will create a postal retail network that better reflects the demand for postal retail services.”²¹ Witness Boldt testified that the “principal lesson here in this initiative is to right size and optimize the retail facility to meet the needs of the transactions that we’re seeing today.”²² In addition, witness Boldt indicated that the RAO Initiative and

¹⁵ *Id.*; see also 39 U.S.C. § 3661(b).

¹⁶ *Id.* at 265.

¹⁷ Request at p. 1.

¹⁸ *Id.* at p. 2.

¹⁹ USPS-LR-N2011-1/11 RAO Initiative Candidate Facility Status Update (Updated: November 2, 2011)

²⁰ No Delaware facilities were slated for review.

²¹ Tr. 1/264.

²² Tr. 1/457.

the implementation of the revised Handbook PO-101 would provide useful lessons as the Postal Service contemplates future closings of other facilities.²³

In its Advisory Opinion in Docket No. N2009-1 regarding the Postal Service Station and Branch Optimization and Consolidation Initiative, the Commission asserted jurisdiction stating

The change in the nature of postal services broadly can be defined as changes to a customer's ability to access essential postal services that require a visit to a postal retail facility. As an indication of the scope of the Initiative, the Postal Service asserts that the Initiative is a nationwide program, that the policies and procedures established under the Initiative may be expanded and continue to be applied into the future.²⁴

This rationale is equally applicable in this docket. Specifically, under review in this case is the Postal Service's nationally applied criteria for selecting facilities to review and the method for evaluating approximately 4,000 postal retail facilities across 49 states and the District of Columbia for possible discontinuance, with a high possibility that substantial number of these facilities will close. Further, the Postal Service plans to use what it learns from this Initiative in future closings across the country. Leaving aside for the moment the wisdom and legality of the RAO Initiative, this program is, at base, the Postal Service's attempt to "right-size" its retail network nationwide. As in with SBOC Initiative at issue in Docket No. N2009-1, the RAO Initiative implicates a change "to a customer's ability to access essential postal services that require a visit to a postal retail facility," and this change is the result of a nationwide program, with future implications. Consequently, the RAO Initiative will clearly result in changes in the nature of postal services on a nationwide or substantially nationwide basis.

Therefore, as supported by record evidence in this case and in accordance with clear judicial and Commission precedent, the Commission has jurisdiction to issue an advisory opinion on the RAO Initiative.

²³ Tr. 1/458-459, 612; see also Tr. 2/834.

²⁴ PRC Advisory Op. N2009-1 p. 11.

III. RAO Initiative Violates Title 39

A. The RAO Initiative as Applied to Rural Post Offices Violates Section 101(b) of Title 39

Title 39 Section 101(b) mandates:

The Postal Service shall provide a **maximum degree** of effective and regular services to **rural areas, communities and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit**, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities. [emphasis added]

The RAO Initiative at issue in this case violates Section 101(b) of the Act in two specific ways. First, the selection criteria used to determine the “low workload Post Offices” is nothing more than a proxy for selecting post offices that are operating at a deficit. Specifically, the Postal Service surveyed its postal retail facilities and selected all Post Offices that “for which earned workload amounted to less than two hours per day and annual revenue was no greater than \$27,500.”²⁵ This survey identified over 2,800 candidate offices to be studied for possible discontinuance.²⁶ Significantly, simple math shows that application of these criteria results in the selection of post offices that are losing money: 10 hours (representative of the minimum work hours) times the average Postmaster salary plus reasonable rent is always going to be greater than \$27,500. Thus, by design, the Initiative selects facilities that are operating at a deficit. Furthermore, the only reason these facilities are being studied, and will likely be closed as a result, is their inclusion in the RAO Initiative study list. Consequently, the RAOI criterion for the “low workload Post Offices” inherently violates Section 101(b) of the Act.

The Initiative also runs afoul of Section 101(b) because it leads to the study and likely closure of postal retail facilities in rural areas, communities and small towns where post offices are not self-sustaining resulting in a diminution of service contrary to the edict to provide a “maximum degree of effective and regular service” to these constituencies. In response to an interrogatory from the National League of Postmasters, the Postal Service stated that a “maximum degree of effective and regular postal services” would include all of

²⁵ USPS-T-1 at p. 15.

²⁶ Id.

the retail services currently available at a Post Office “subject to more variation in access and less proximity than would be experienced in urban and suburban areas where postal retail facilities and alternate access sites are likely to be clustered relatively more densely.”²⁷ Thus, it appears that the Postal Service might already be providing less than a “maximum degree” of postal services to rural areas, and now intends to reduce that service even more. The Postal Service concedes that “there will be cases where the closest alternate retail options for a facility under discontinuance review will not be a ‘full-service’ postal or contract postal unit options.”²⁸ The Postal Service also acknowledges that it has “zero expectation that ‘alternative access’ by itself ‘will adequately meet the demand for retail postal services.’ Classified retail units remain a necessary part of the mix.”²⁹ However, it has provided no evidence of how it intends to mitigate this hardship for many rural residents who simply cannot afford, in terms of time and money spent on gas, to go to a distant Post Office, or who are physically unable to go great distances, as is the case with many elderly members of rural communities.³⁰

Instead, the Postal Service is proposing “Village Post Offices” (VPOs) as an alternate access channel, while admitting, as it must, that a VPO which only provides two services, postage and Priority Mail flat rate packaging, “is not intended to nor able to ‘replace’ a Post Office.”³¹ Postal Service witness Boldt also suggests that rural carriers might be used as an alternative to a Post Office.³² However, many problems exist with this alternative. First, it is difficult to meet the carrier for services if a customer works during the day. Second, even if

²⁷ Tr. 2/780.

²⁸ Tr. 1/81.

²⁹ Tr. 1/266.

³⁰ “You expressed a concern about those customer with disabilities who are not able to go to the post office to pick up their mail. Customers are not required to travel to another post office to receive mail or obtain retail services. These service will be provided by the carrier to a roadside mailbox located close to customers’ residences. In hardship cases, delivery can be made to the home of a customer. Changes in the type of delivery are considered where service by existing methods would impose an extreme physical hardship for an individual customer. Any request for a change in delivery method must be submitted in writing to the administrative postmaster.”

A 2012-13, Item Number 25, page 3, concern 17; identical response in A2012-10, Item 25, page 2, concern 9; and in A2012-23, Item 25, page 1, concern 5; almost identical response in A2012-11, Item Nbr 25, concern 6; and in A2012-31, Item 25, page 1, concern 1.

³¹ Tr. 1/199; Tr. 1/324; see also Tr. 2/780.

³² USPS-T-1 at p. 4.

the person can take off from work, it is difficult to know when the carrier will arrive. Third, some services are either not permitted, like giving the rural carrier packages weighing over 13 ounces³³, or are impractical, like using a rural carrier for a money order, which would require interacting with the carrier two days in a row.³⁴

As a result of the RAO Initiative and subsequent discontinuance studies, numerous rural communities will see a steep reduction in their access to postal retail services. Nevertheless, the Postal Service maintains that it will provide a “maximum degree of effective and regular service.” This is simply not believable. The Postal Service admits that access to classified retail units is necessary, but does nothing to study if people will realistically maintain such access after a local Post Office is closed. The Postal Service merely investigates the distance to the nearest facility, but it does not look at the road conditions, or the needs and the ability of the community members to access the alternative facility. The Postal Service does not even have working definitions of rural, small post office, or “maximum degree of effective and regular service.”³⁵ Alarmingly, the Postal Service states that it has “no specific legal requirement or business need for actually concluding that section 101(b) applies to a specific office;”³⁶ thus making the Postal Service assurances that it is acting in compliance with the mandate of Section 101(b) disingenuous. Therefore, for all of the foregoing reasons, the Commission should find that the RAO Initiative and subsequent discontinuance studies and closures violate Section 101(b) of Title 39.

B. The RAO Initiative Violates Section 403(c) of the Act

Section 403(c) of the Act requires that “[i]n providing services..., the Postal Service shall not, except as specifically authorized in this title, make any undue or unreasonable discrimination among users of the mail, nor shall it grant any undue or unreasonable preferences to any such user.” The Initiative under consideration in the present docket implements a centrally directed process whereby Post Offices, stations and branches in urban and rural areas are selected based on whether they meet one of four

³³ Tr. 1/382.

³⁴ Tr. 1/399-400, 407-408.

³⁵ Tr. 1/ 191.

³⁶ Tr. 1/190.

criteria for study for possible closure. Postal Service Witness Boldt asserts that customer behavior is changing as evidenced by an increase in the use of “alternate retail access channels” causing a diminution in the role of brick-and-mortar retail facilities in the postal network.³⁷ As a result, the Postal Service seeks to “review its physical retail network to determine if reasonable opportunities exist for making the network more efficient and customer access more convenient, while continuing to provide adequate access to its products and services.”³⁸ It is important to note, that while the Postal Service uses terms like “optimize,” “right-size” and “make its network more efficient”, the fact is that the Postal Service is solely looking to close postal retail facilities; it is not looking to rearrange facilities so as to optimize access to important postal services.

To facilitate this review of facilities for possible closure, the Postal Service utilizes the RAO Initiative, which “consists of a Headquarters-initiated review of Post Offices and subordinate stations and branches through the examination of factors evaluated in a centralized and coordinated manner.”³⁹ The categories examined are “low workload Post Offices,” “stations and branches with insufficient demand and available alternate access”, “retail annexes with insufficient demand and available alternate access” and “pending discontinuance actions awaiting public input.”⁴⁰ In total, the RAO Initiative identified 3,652 facilities to be studied for possible closure. The first three categories of facilities to be studied, totaling approximately 3400 facilities, relies heavily on low revenue considerations. This focus on low revenue, or “insufficient demand” at the outset would tend to bias vulnerable populations, including the elderly and areas with lower incomes, and smaller populations.⁴¹ These populations represent customers who are least able to adapt to a discontinuation of their local postal facility.

Specifically, APWU Witness Anita Morrison found that “fifty-seven percent of those rural areas with post offices being considered for closure have higher shares of low-income households than the average of the control group [of rural facilities not being considered for

³⁷ USPS-T-1 at pp.6-7.

³⁸ USPS-T-1 at p. 13.

³⁹ USPS-T-1 a p. 14.

⁴⁰ USPS-T-1 at pp. 14-16.

⁴¹ APWU-T-1 at p. 8; Tr. 3/914.

closure].⁴² For example, Ms. Morrison found that “more than 60 percent of households served by Wounded Knee, South Dakota Post Office being considered for closure have incomes less than \$20,000.”⁴³ Ms. Morrison also found this to be true for households served by Furman, Alabama and Scalf, Kentucky Post Offices.⁴⁴ The income disparity is even greater for urban facilities selected for study for possible discontinuance:

The control group of urban postal facility areas has an average of 19.4 percent of households with incomes below \$20,000. Among urban areas with facilities being evaluated for closure, the average is 27.0 percent of households with incomes below \$20,000. Sixty-four percent of urban areas with postal facilities being considered for closure have larger low-income populations than does the control group. More than 22 percent have averages more than double that of the control group station areas. Nineteen facility areas (2.9 percent) have triple the share of low-income households when compared to the control group average.⁴⁵

Ms. Morrison further testified that there is a correlation between vehicle ownership and income, noting that the “39 rural postal facility areas with an average of 20 percent or more of households with no vehicles have an average of 31.2 percent of households with incomes below \$20,000, 50 percent higher than the control group average.”⁴⁶ This is of particular importance since “one-third of the rural post offices being considered for closure are more than 10 miles for the nearest alternate post office, and 1 out of 10 is more than 20 miles away.”⁴⁷ In the most extreme case, Ms. Morrison found that “seven post offices [being considered for closure] are more than 80 miles to the nearest post office.”⁴⁸

Ms. Morrison also found that the facilities in urban areas selected for study for possible closure contain a large racial disparity.⁴⁹ Specifically, Ms. Morrison found that “close-in areas around the stations, branches, and annexes being studied for closure have an average of 45.1 percent minority (non-white) population in contrast to the average of 26.3 percent of urban facility areas in the control group not being considered for closure.”⁵⁰

⁴² APWU-T-1 at p. 8.

⁴³ APWU-T-1 at p. 9.

⁴⁴ APWU-T-1 at p. 9.

⁴⁵ APWU-T-1 at p. 15.

⁴⁶ APWU-T-1 at p. 11.

⁴⁷ APWU-T-1 at p. 10.

⁴⁸ APWU-T-1 at p. 10.

⁴⁹ APWU-T-1- at p. 19.

⁵⁰ APWU-T-1 at p. 19.

“The percentage of minority population is 20 percent higher in areas surrounding declining-revenue stations than in the total inventory of urban facilities being considered for closure.”⁵¹

This is of particular significance when speaking of the “unbanked,” those residents without checking or savings accounts. Approximately 9 million households do not have a bank account. And “a disproportionately large number of these households are minority or low income.”⁵² In fact, the FDIC reports that nearly 7million households earning below \$30,000 per year do not have a bank account.⁵³ For these households money orders are essential. In fact, the Post Office money orders were designed for the unbanked with easier ID requirements to cash than generally required for checks (two pieces of ID with Driver or other ID recorded on check);⁵⁴ and can only be bought with cash – not with a check;⁵⁵ and international money orders particularly to Mexico and South America are advertised as “secure.”⁵⁶ The loss of a post office could make obtaining money orders very difficult as not all retailers in a community sell money orders, even if they do, they might not have as easy ID requirements as the Postal Service and as explained above, utilizing carrier service to obtain a money order is not feasible.

Ms. Morrison also determined that the rural postal facilities being considered for closures, had a higher average of the population aged 65 and older than the average facility area of the control group.⁵⁷ This is of particular concern since older residents may have greater need for postal services, for example, for receipt of medications, coupled with increased difficulty in traveling to distant post offices.⁵⁸

The Initiative’s focus on facilities with low revenue inherently means that the Postal Service is studying areas for closure that have a higher concentration of low income, and elderly households. This focus on low revenue also means that facilities on the list for possible closure are disproportionately in rural areas with smaller populations. As a result,

⁵¹ APWU-T-1 at p. 19.

⁵² APWU-T-1 at p. 24.

⁵³ APWU-T-1 at pp. 24-25.

⁵⁴ DM M15.3.3

⁵⁵ DMM 15.2.3

⁵⁶ <http://www.moneywiretransfers.com/usps/>

⁵⁷ APWU-T-1 at p. 12.

⁵⁸ APWU-T-1 at p. 17.

the facilities the Postal Service ultimately decides to discontinue will have a greater adverse impact on these vulnerable populations. This is clearly discriminatory.

However, the Postal Service is not prevented from discriminating against various users of the mail in general. Rather the Postal Service is prohibited from engaging in undue or unreasonable discrimination. The process used and/or the cost savings resulting from the closure of various postal facilities, at least arguably, could militate against any incidental discrimination being determined to be undue or unreasonable. Yet the record in this case makes clear that neither the process nor the potential cost savings justify the discrimination. In fact, the upper bound for costs savings in the event that all facilities originally proposed to be studied for possible closure were in fact closed would be only \$200 million, or three-tenths of one percent of the total operating expenses of the Postal Service.⁵⁹ Such insignificant savings should not privilege the discrimination against rural communities, low income and elderly families present in this case. Furthermore, as detailed in Section IV below, the process used to study and close facilities contained in the revised Handbook PO-101, does nothing to negate the discriminatory nature of RAO Initiative. It must be revised to reduce the adverse impact of the Initiative and to ensure that both the goals of the Postal Service and the needs of postal customers are adequately considered and addressed.

IV. The Discontinuance Process Detailed in PO-101 Handbook Does not Comply with the Requirements of Title 39 and Must Be Revised

A. The PO-101 Discontinuance Study Community Input Process is Inadequate

The Postal Service asserts throughout this docket that concerns about the impact on vulnerable populations of customers, like those with low-incomes, elderly, minority or in rural areas will be adequately addressed in the discontinuance process mandated by PO-101. It is through the PO-101 community input process alone that the Postal Service obtains information from the community about their needs and the impact of closing a local post office. Unfortunately, the process is woeful inadequate as a means to discover and protect the interests of these communities.

⁵⁹ Tr. 1/421.

Under the PO-101 process the community has two primary options by which it provides input: a questionnaire and comments received at a community meeting. The Postal Service is supposed to use the comments received as part of its evaluation of whether the community will maintain a maximum degree of effective and regular postal services in the event the local post office is closed.⁶⁰ However, the process as designed does not permit meaningful engagement with the community over its concerns. Specifically, the Postal Service has scheduled community meetings in several areas at times during the middle of the day when very few people could attend.⁶¹ Also, the Postal Service should be required to provide notice of the closure and public meeting in the local newspaper. Furthermore, the information supplied to the community in advance of the questionnaire and community meeting is limited, thereby reducing the utility in the feedback received.⁶² Ideally, engagement with the community should be an iterative process whereby the Postal Service informs the community of the details of the proposal, the community then responds to questionnaires and then the Postal Service discusses those responses with the community at the community meeting. Unfortunately, the current process is not iterative and in most cases questionnaires are due on the same date as the public meeting so there has been no opportunity for the Postal Service to have analyzed them to develop an adequate response or conversation at the community meeting.⁶³

In addition, in all of the 100 plus appeals filed with the Commission this year, no matter the number of people who expressed an inability to access alternate services, either because the alternate postal facility is too far away, too expensive to get to, the customer is unable to drive, cannot use carrier service or explains that they have no internet access, the Postal Service has concluded in each case that the closure of the community post office will not adversely affect the community and that “taking all available information into consideration....the final determination [to close the post office] will provide a maximum degree of effective and regular postal services to the community.”⁶⁴ The Postal Service

⁶⁰ Tr. 1/565.

⁶¹ See Tr. 1/369. Community meetings in Brooks, Minnesota and in facilities in Missouri and Indiana were scheduled for 10:00am.

⁶² Tr. 3/971.

⁶³ See A2011-91 Administrative Record p. 301; A2012-16 Administrative Record p. 35; A2012-4 Administrative Record p. 139; A2011-86 Administrative Record p. 34

⁶⁴ A2011-16 Administrative Record at p. 251.

reaches this conclusion despite the failure to provide any guidance to ameliorate the negative impacts the closure will have on the community.

In fact, the Postal Service does not even study what will happen to the 21% of Post Office Boxes of the 2800 low workload offices that are no fee.⁶⁵ In no response to the community does the Postal Service acknowledge that if cluster boxes are installed people will have to drive to them, nor does it concede that there are costs associated with constructing and maintaining a mailbox. The Postal Service also fails to recognize the cost of a change of address in terms of a customer's time and money and it fails to recognize its own costs for handling the change of address and forwarding or returning of UAA mail.

Moreover, Section 353.4 of the PO-101 requires that "written response be sent to each customer comment. The response must address the individual concerns expressed by the customer."⁶⁶ However, a review of the administrative record provided in recent appeals to the Commission reveals that the responses are not individualized. Instead, they are boilerplate responses that fail to adequately respond to the issues raised by the community. A brief summary of the types of non-responsive comments provided to the community are included in the table below.

Summary of Individual Comments	Postal Service Response to Comments
The responder comments that he cannot use carrier deliver because the mailbox would have to be on the road which is in the middle of a cattle paddock. (A2012-10 Administrative Record p. 103.)	<ul style="list-style-type: none"> The Postal Service is not required to maintain a public bulletin board. A public bulletin board can be made available at another local establishment." (A2012-10 Administrative Record p. 156.)
The responders comment that they do not leave checks in the mailbox and instead go to the Post Office to pay their bills. They also state that they would never leave cash in the mailbox for any additional service. (A2012-10 Administrative Record p.124)	<ul style="list-style-type: none"> You expressed a concern over the dependability of rural route/HCR service. Rural/HCR carriers perform a vital function in the United States Postal Service serving thousands of families and businesses in rural and suburban areas while traveling millions of mile daily. Rural/HCR carriers are highly respected by the American public. This respect has been earned by many years of dedication to the Postal Service and to postal customers. During national and local emergencies, including prolonged periods of extreme weather conditions, rural/hcr carriers have demonstrated great responsibility in

⁶⁵Tr. 1/35; Tr. 1/149.

⁶⁶ Tr. 1/517.

	<p>providing mail service to postal customers. Rural/HCR carriers are required to serve the route expeditiously and arrive at boxes at about the same time each day. The Deer Trail post office located 12 miles away also provides all retail services.” (A2012-10 Administrative Record p. 164.)</p>
<p>Responder expresses concern that the Post Office is the only business in town. (A2012-10 Administrative Record p. 142.)</p>	<ul style="list-style-type: none"> • We appreciate you taking the time to complete the Customer Questionnaire. Your responses will be considered when recommendations for changes in service are determined.” (A2012-10 Administrative Record p. 177).
<p>A business customer expressed concern for the cost of travel to another Post Office and the desire to maintain the friendly service at the small post office instead of just being another number. (A2012-10 Administrative Record p. 87.)</p>	<ul style="list-style-type: none"> • You expressed concern about senior citizens. Carrier service is beneficial to many senior citizens and those who face special challenges because the carrier can provide delivery and retail services to roadside mailboxes or CBUs. Customers do not have to make a special trip to the post office for service. Special provisions are made for hardship cases or special customer needs. To request an exception for hardship delivery, customers may contact the administrative postmaster for more information. • The Postal Service is not required to maintain a public bulletin board. A public bulletin board can be made available at another local establishment. • You expressed a concern over the dependability of rural route/HCR service. Rural/HCR carriers perform a vital function in the United States Postal Service serving thousands of families and businesses in rural and suburban areas while traveling millions of mile daily. Rural/HCR carriers are highly respected by the American public. This respect has been earned by many years of dedication to the Postal Service and to postal customers. During national and local emergencies, including prolonged periods of extreme weather conditions, rural/hcr carriers have demonstrated great responsibility in providing mail service to postal customers. Rural/HCR carriers are required to serve the route expeditiously and arrive at boxes at about the same time each day. The Deer Trail post

	office located 12 miles away also provides all retail services.” (A2012-10 Administrative Record p. 179 and again on p. 200.)
In the questionnaire a customer expressed concern over the fact that she uses a P.O. Box as her business address and if the Post Office closed she would face a business hardship in having to reprint her letterhead, business cards and marketing materials. (A2012-10 Administrative Record p. 76.)	<ul style="list-style-type: none"> • The Postal Service is not required to maintain a public bulletin board. A public bulletin board can be made available at another local establishment. • You expressed concern about an address change. Customers can continue to use the community name, suspended Post Office, in the last line of the address, however, in order to insure regular and effective service the Zip Code would change to the Deer Trail zip code. (A2012-10 Administrative Record p. 212.)
Responder commented that proposed alternate post office is not near his home and is not on his route to work or to anywhere else. He also expressed concern about receiving bank statements in his mail box stating that he chose not to for security reasons. (A2012-4 Administrative Record p. 72.)	<ul style="list-style-type: none"> • You expressed a concern about having to travel to another post office for service. Services provided at the post office will be available from the carrier, and customers will not have to travel to another post office for service. Most transactions do not require meeting the carrier at the mailbox. Stamps by Mail and Money Order Application forms are available for customer convenience. The USPS also offers convenient carriers package pickup. This service is free, regardless of the number of packages you’re sending. Full details are available at USPS.com. Your carriers will pick up your packages when your regular mail is delivered. Schedule a pickup for the next delivery day, or with the advanced pickup option, up to 3 months from today. Available with Express Mail®, Priority Mail®, International services, Merchandise Return Service and Parcel Return Service. Carriers can also accept packages at the mailbox without a customer being present, provided the postage is fully prepaid, and the customer is known to reside or conduct business at that collection point. (A2012-4 Administrative Record p. 324.)
A commenter responded that the Post Office is responsible for deliveries for farms, including fish farms. She also expressed the opinion that the community is growing as evidenced by a new housing development. She also stated that closing	<ul style="list-style-type: none"> • You expressed concern about the loss of the Communities’ Identity. A community’s identity derives from the interest and vitality of its residents and their use of its name. The Postal Service is helping to preserve community

<p>the post office would be a great loss to the community, it provides a meeting place and is has been around for over 100 years, making it one of the oldest rural post offices. (A2012-4 Administrative Record pp. 124-126.)</p>	<p>identity by continuing the use of the suspended Post Office name and ZIP Code in addresses and in the National Five-Digit ZIP Code and Post Office Directory. (A2012-4 Administrative Record p. 122.)</p>
<p>A commenter expressed concern because he is on disability and that driving is difficult. (A2012-4 Administrative Record p. 128.)</p>	<ul style="list-style-type: none"> You expressed a concern about those customers with disabilities who are not able to go to the post office to pick up their mail. Customers are not required to travel to another post office to receive mail or obtain retail services. These services will be provided by the carrier to a roadside mailbox located close to the customers' residences. The USPS also offers convenient carriers package pickup. This service is free, regardless of the number of packages you're sending. Full details are available at USPS.com. Your carriers will pick up your packages when your regular mail is delivered. Schedule a pickup for the next delivery day, or with the advanced pickup option, up to 3 months from today. Available with Express Mail®, Priority Mail®, International services, Merchandise Return Service and Parcel Return Service. Carriers can also accept packages at the mailbox without a customer being present, provided the postage is fully prepaid, and the customer is known to reside or conduct business at that collection point. In hardship cases, delivery can be made to the home of a customer. Changes in the type of delivery are considered where service by existing methods would impose an extreme physical hardship for an individual customer. Any request for a change in delivery method must be submitted in writing to the administrative postmaster. (A2012-4 Administrative Record p. 127.)
<p>Responder commented that he was legally blind and therefore unable to drive; he also stated that he receives medical supplies through the mail. (A2012-16 Administrative Record p. 66.)</p>	<p>[No individualized letters were found in the record, so relying on the summary of comments and responses]</p> <ul style="list-style-type: none"> Carrier service is beneficial to many senior citizens and those who face special challenges because the carrier can provide delivery and retail services to roadside mailboxes or Centralized Box Units. Customers do not have to make a special trip to the Post Office for

	<p>service. Special provisions are made for hardship cases or special customer needs. To request an exception for hardship delivery, customers may contact the administrative postmaster for more information. (A2012-16 Administrative Record p. 186.)</p>
<p>Responder expressed concern over loss of the Post Office because it provides notice if the water system experiences a failure; she also expressed a dislike for delivery service and expressed the inadequacy of the “Post Office on Wheels” concept. (A2012-16 Administrative Record p. 76.)</p>	<ul style="list-style-type: none"> • No Response found in the Record.
<p>Responder commented that she gets prescriptions and checks through the mail and pays her bills at the Post Office. She stated she would be unable to make it to a farther away Post Office because she works 6 days per week. (A2012-16 Administrative Record p. 148.)</p>	<ul style="list-style-type: none"> • Carrier service is beneficial to many senior citizens and those who face special challenges because the carrier can provide delivery and retail services to roadside mailboxes or Centralized Box Units. Customers do not have to make a special trip to the Post Office for service. Special provisions are made for hardship cases or special customer needs. To request an exception for hardship delivery, customers may contact the administrative postmaster for more information. (A2012-16 Administrative Record p. 186.)
<p>Responder stated that they are completely disabled and receive medication from the VA which will not deliver to a rural address only a PO Box. Having to go to a distance Post Office would be very expensive due to gas prices. (A2012-16 Administrative Record p. 150.)</p>	<ul style="list-style-type: none"> • Carrier service is beneficial to many senior citizens and those who face special challenges because the carrier can provide delivery and retail services to roadside mailboxes or Centralized Box Units. Customers do not have to make a special trip to the Post Office for service. Special provisions are made for hardship cases or special customer needs. To request an exception for hardship delivery, customers may contact the administrative postmaster for more information. (A2012-16 Administrative Record p. 186.)
<p>Responder stated concern over the ability of senior citizens to access alternate facility. (A2012-16 Administrative Record p. 115)</p>	<ul style="list-style-type: none"> • You expressed a concern about senior citizens. Carrier service is beneficial to many senior citizens and those who face special challenges because the carrier can provide delivery and retail services to roadside mailboxes or Centralized Box Units. Customers do not have to make a special trip to the Post Office for service. Special provisions are made for hardship cases or special customer needs. To

	request an exception for hardship delivery, customers may contact the administrative postmaster for more information. (A2012-1 Administrative Record p. 113).
Commenter expressed concern about the impact of the closure on senior citizens. (A2011-93 Administrative Record p. 45).	<ul style="list-style-type: none"> You expressed a concern about senior citizens. Carrier service is beneficial to many senior citizens and those who face special challenges because the carrier can provide delivery and retail services to roadside mailboxes or Centralized Box Units. Customers do not have to make a special trip to the Post Office for service. Special provisions are made for hardship cases or special customer needs. To request an exception for hardship delivery, customers may contact the administrative postmaster for more information. (A2011-93 Administrative Record p. 45).
Customer commented that she was 75 years old and had limited ability to drive, she expressed concern for the high volume of traffic and limited parking at the closest facility, over 10 miles away. (A2011-92 Administrative Record p. 64).	<ul style="list-style-type: none"> You expressed a concern about senior citizens. Carrier service is beneficial to many senior citizens and those who face special challenges because the carrier can provide delivery and retail services to roadside mailboxes or CBUs. Customers do not have to make a special trip to the Post Office for service. Special provisions are made for hardship cases or special customer needs. To request an exception for hardship delivery, customers may contact the administrative postmaster for more information. (A2011-92 Administrative Record p. 62).
Customer expressed concern over the need for mail security for monthly checks and therefore relies on PO Boxes. (A2011-92 Administrative Record p. 61).	<ul style="list-style-type: none"> You expressed concern about the security of mail. Customers may place a lock on their mailboxes. The mailbox must have a slot large enough to accommodate the customer's normal daily mail volume. The Postal Service does not open mailboxes which are locked and does not accept keys for this purpose. (A2011-92 Administrative Record p. 59).
At community meeting customer expressed concern over the security of the mail. (A2011-86 Administrative Record p. 153.)	<ul style="list-style-type: none"> You expressed concern about the security of mail. Customers may place a lock on their mailboxes. The mailbox must have a slot large enough to accommodate the customer's normal daily mail volume. The Postal Service does not open mailboxes which are locked and does not

	accept keys for this purpose. (A2011-86 Administrative Record p. 153.)
Customer responded that she is disabled and cannot clear the snow from mailbox for carrier delivery. She also indicated that she preferred the convenience of a PO Box. (A2011-86 Administrative Record p. 84).	<ul style="list-style-type: none"> Customers are not required to travel to another post office to receive mail or obtain retail services. These services will be provided by the carrier to a roadside mailbox located close to the customers' residences. In hardship cases, delivery can be made to the home of a customer. Changes in the type of delivery are considered where service by existing methods would impose an extreme physical hardship for an individual customer. Any request for a change in delivery method must be submitted in writing to the Williamstown postmaster. (A2011-86 Administrative Record p. 134).

One particularly illustrative example of the Postal Service's failure to adequately solicit and respond to customer concerns can be found in the Administrative Record for the closing of the Ingleside, Maryland Post office. On page 54 of part 2 of the Administrative Record one commenter noted that large Spanish speaking population present in the Ingleside community and requested that the questionnaire be provided in Spanish in addition to English. The Postal Service responded that this concern would be communicated to other postal official for consideration. Yet nowhere in the administrative record is there evidence that materials were provided in Spanish. And in the final summary of comments and responses the Postal Service stated in response to this concern that "the community meeting and correspondence were handled according to the applicable laws and procedures."⁶⁷

Another example of the inadequacy of the Postal Service's consideration of public input is found in the Administrative Record for the closing of the Agate Colorado Post Office. In response to customer concerns about the loss of the community identity the Postal Service replied with the boilerplate response:

You expressed concern about the loss of the Communities' Identity. A community's identity derives from the interest and vitality of its residents and their use of its name. The Postal Service is helping to preserve community identity by

⁶⁷ A2011-99 Administrative Record Part 3, p. 50.

continuing the use of the suspended Post Office name and ZIP Code in addresses and in the National Five-Digit ZIP Code and Post Office Directory.⁶⁸

Yet when responding to customer concerns about the need to change addresses on stationary, business letterhead, and checks, the Postal Service provided this contradictory, boilerplate response:

You expressed a concern about an address change. Customers can continue to use the community name, suspended Post Office, in the last line of the address, however, in order to insure regular and effective service the Zip Code would change to the Deer Trail zip code.⁶⁹

Clearly the PO-101 community input process fails to adequately consider the legitimate interests and concerns of the community.

Furthermore, it seems apparent that the Postal Service's only interest in conducting these studies is to close the facilities at issue; they are not looking to ensure effective service for these communities. If they were, they would provide the community with some idea of what it can do to save its post office.⁷⁰ The Postal Service would also give great consideration to a community's offer to provide a facility for the post office free of charge; yet this appears to be something the Postal Service simply ignores.⁷¹ This is not appropriate behavior for a public service provider with an explicit mandate to provide a "maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining." 39 U.S.C. § 101(b).

B. The Postal Service Fails to Give Due Consideration to the Impact on the Community.

The Postal Service readily admits that the PO-101 process does not provide a separate and distinct area in the process for evaluating the effects on the community.⁷² In

⁶⁸ A2012-10 Administrative Record p. 214.

⁶⁹ A2012-10 Administrative Record at p. 215.

⁷⁰ Tr. 1/479.

⁷¹ See <http://northfieldnews.com/content/usps-seals-post-offices-fate>; <http://northfield.patch.com/articles/usps-solutions-to-save-downtown-northfield-post-office>.

⁷² Tr. 1/606.

its discontinuance review, the Postal Service does not study vehicle ownership,⁷³ or the needs of elderly populations. It also does not study whether and how people access alternative postal retail channels.⁷⁴ This is highly problematic given the fact that many of the facilities under consideration for possible closure in this case are in rural areas with large segments of elderly and low income populations that are likely to be adversely impacted by a post office closure and are the segment of the population least able to mitigate these adverse impacts.

The Postal Service also does not study economic development as a part of discontinuance review.⁷⁵ This is a staggering omission given the importance of the Post Office to many communities. As noted by APWU Witness Morrison, the post office in rural communities plays a pivotal role; “for many the presence of a post office is what gives the town its identity, validating the town through official recognition of its existence.”⁷⁶ The Post Office is also a great generator of activity acting as a “community center.”⁷⁷ When a town loses a post office, not only the residents, but also the local businesses suffer. As explained by Ms. Morrison:

As the closing postal facility’s former patrons frequent other postal facilities, they may find retailers in those areas are more convenient for one-stop shopping, diverting their sales from the original neighborhood business district. Depending on the extent of post office activity, these sales declines may be modest. However, even a 10-percent decline in sales can make the difference between profitability and business failure.

Lower sales translate into a reduced ability to pay market rents, which may force landlords to accept lower rents or higher vacancies. With a reduced rental cash flow, a landlord may choose to forego reinvestment and property upgrading over time. This neglect then contributes to a cycle of neighborhood decline as buildings deteriorate and are abandoned, posing public safety concerns. In turn, these trends undermine the performance of remaining businesses and supportable rent levels.⁷⁸

⁷³ Tr. 1/273.

⁷⁴ Tr. 1/277; Tr. 1/393.

⁷⁵ Tr. 1/412; Tr. 2/699.

⁷⁶ APWU-T-1 p. 20.

⁷⁷ APWU-T-1 p. 21.

⁷⁸ APWU-T-1 pp. 21-22.

In his rebuttal testimony Mayor Donald Hobbs acknowledged the importance of a post office to entice and keep businesses in a town:

We are actively looking to support new and existing businesses in our town, and I know that without a Post Office of our own, we are going to have a very difficult time. No business, which is considering locating in a small town, will pick a small town without a post office over a small town with a post office.⁷⁹

In the discontinuance studies, the Postal Service also fails to include consideration of other ongoing initiatives that impact access to postal services.⁸⁰ Currently, these initiatives include the Delivery Unit Optimizations, the Network Optimization Plan, the change in service standards that would virtually eliminate overnight delivery, and the Postal Service is seeking permission from Congress to reduce delivery from six to five-days per week. All of the initiatives individually will undoubtedly have an impact on service. In combination, these initiatives could dramatically impact customers' ability to access essential postal services. Therefore, the RAO Initiative and resulting discontinuance studies cannot be evaluated in a vacuum. The Postal Service, as Mr. Dean Granholm admits, must look at all of the ongoing efforts by the Postal Service to streamline its network.⁸¹

Because the Initiative at the outset affects areas with high concentrations of vulnerable populations, the Postal Service should do more to ensure that these populations are not disproportionately impacted by the discontinuance studies. The record evidence in this docket does not indicate that extra efforts are taken to prevent or ameliorate adverse impacts on these vulnerable populations. Therefore, it cannot be said that the resulting discrimination as outlined in APWU Witness Morrison's testimony and detailed above is not undue or reasonable. In order to ensure that the closings facilitated under the PO-101 do not violate Section 101(b) or Section 403(c) the Postal Service must revise the PO-101 process to fully take into account the impact on the community. The Postal Service should be required to undertake demographic and economic development analysis to confirm that the closing of a post office will not adversely impact the community and its residents.

⁷⁹ NLPM-RT-2 at pp 15-16.

⁸⁰ Tr. 1/610.

⁸¹ Tr. 1/610.

C. The Savings Calculations Derived in the PO-101 Process Are Disingenuous

While the Postal Service claims that it has made revisions to the Handbook PO-101 that have greatly improved the financial analysis of discontinuance studies, this analysis is still greatly lacking. It appears from the record evidence in this case that the Postal Service determines the cost savings of closing a particular facility by summing the cost of the Postmaster's salary and benefits and the cost of the lease and subtracts the cost of replacement services.⁸² The amount left is what the Postal Service determines is the annual savings it will achieve from closing the post office. This analysis is faulty for several reasons. First, nowhere in the record does it show that labor costs disappear completely. Even if a facility is closed, the employee staffing that facility most likely remains employed and therefore the Postal Service continues to incur a cost for them. Second, the calculation omits several costs that should be considered, namely the cost of the increase in rural or HCR delivery, the cost of appeals and the cost of reestablishing service after an appeal. These are costs that necessarily must be counted in order to determine what the legitimate savings are from taking the drastic step of removing a valuable post office from a community. Without including these costs, the projected savings are invalid and therefore cannot be used to mitigate the undue or unreasonable burden discriminatorily imposed on rural communities in violation of Section 403(c).

D. The PO-101 Discontinuance Process Should Include Consideration of Alternatives to Closing Post Offices.

In its Request the Postal Service states that

postal management's goals in pursuing the RAO Initiative are to:

- Evaluate the level of earned workload, customer demand, and/or availability of alternatives of a retail facility in determining whether it should be studied for discontinuance;
- Apply revised discontinuance rules to locally-initiated discontinuance actions already in progress that have not advanced to the community meeting stage;
- Improve efficiency and enhance customer convenience in the provision of retail services through the use of alternate access; and

⁸² Tr. 2/852.

- Capture the resulting cost savings if a determination is made to close a postal retail facility.⁸³

In order to better meeting the latter two goals, the Postal Service should include consideration of alternatives to closing a postal retail facility. Specifically, there are numerous things that the Postal Service can do to reduce its footprint and save costs. For example, the Postal Service could utilize mobile vans in areas that require ready access to essential postal services but cannot sustain the cost of a postal facility. The Postal Service could also reduce the hours of operation at low-revenue facilities. Finally, the recent change to the Postal Service regulation pertaining to the staffing of Post Offices,⁸⁴ coupled with the APWU's collective bargaining agreement which specifically permits staffing of post offices with employees other than Postmasters, who are paid less and receive lower benefits, gives the Postal Service the flexibility to rearrange staffing to save money while still maintaining a needed retail presence in rural communities.

While the Postal Service denies that the sole reason for conducting the RAO Initiative is to save costs, the current financial state of the Postal Service cannot be ignored. If it is truly interested in improving efficiency and enhancing customer convenience while also capturing any resulting cost savings, then the Postal Service should be required to consider all available options before it undertakes to close a postal facility, which naturally deprives postal customers of access to retail facilities.

Furthermore, the Postal Service should not simply consider alternatives that it can conceive of, it should also consider the alternatives presented by customers in feedback provided during a discontinuance feasibility study. Throughout the administrative records of post office closing appeals cases are suggestions from consumers of valid alternatives to closing the post office, including reduced hours, reduced delivery days, and the offer of a free facilities to house postal services. There is no reason that the Postal Service should ignore these suggestions. They speak directly to the needs of the communities and the interest of the Postal Service in saving money.

⁸³ USPS Request at p. 4.

⁸⁴ 76 FR 66184 (October 26, 2011).

E. The Discontinuance Process Outlined in PO-101 Should Include Post Implementation Review.

Finally, the current Handbook PO-101 fails to include any process for following up on a discontinuance to see the impact on the community and the Postal Service. Specifically, the Postal Service does not evaluate whether closing the postal facility actually saved money, or if it merely drove customers away from the Postal Service and to a competitor like UPS or FedEx. The Postal Service does not study whether the revenue generated at the closed facility stayed in the postal network and if so, whether it went to a nearby facility or to some other alternate access channel. In fact, the Postal Service does not even analyze whether people who have PO Boxes at a facility being discontinued move their PO Boxes.

This is all information the Postal Service needs to know. The Postal Service needs to know how customers respond to the closing of a postal facility to help improve the experience for its customers and ensure that it is actually providing the services they need in the ways that they need them. This enables the Postal Service to determine how best to bring in business through alternatives. Furthermore, a post implementation review would make the process more transparent and effective.

The post implementation review should resemble the post implementation review currently conducted for Area Mail Processing (AMP) studies. As with the AMPs, the Postal Service should post a summary of the study, the steps and outcome online to inform customers of the final impact of the Postal Service closing decision. Examples of AMP summaries can be found at: <http://about.usps.com/streamlining-operations/area-mail-processing.htm>.

F. Revisions to Handbook PO-101

In order to address the deficiencies in the PO-101 process noted above, APWU offers the following revisions to the Handbook. Adoption of these revisions will help ensure that the discontinuance process is transparent, adequately considers customer input and the impact on the community. The revisions also address the need to examine other initiatives, consider alternatives and conduct post implementation reviews for post office closings.

Proposed Changes to Handbook PO-101

It is recommended that the Postal Service create a public website that contains information related to the discontinuance studies it is undertaking that is similar in nature to its website that tracks its Area Mail Processing studies <http://about.usps.com/streamlining-operations/area-mail-processing.htm>

This website could include a copy of Handbook PO-101 or, at a minimum, a checklist of the steps of a discontinuance study.

Add new section 220 to the Handbook

Create a notification file on the Discontinuance Study website as the first information item for the proposed study office.

Change current section 232.1 to 232.11 and add the following language

232.11 A consolidation arises when (a) a Postal Service-operated retail facility is replaced with a contractor-operated retail facility or (b) an independent Post Office is replaced with a classified station or classified branch that reports to and administrative Post Office. The Postal Service now has more flexibility in considering what type of employee serves such an office and the potential cost savings of changing to an alternative employee type is one service alternative.

Add section 232.12

232.12 A reduction in the number of days or the number of hours that a Post Office is open is one service alternative that is to be considered.

Add section 232.13

232.13 Suggestions made by the community on methods of reducing costs and maintaining service are to be considered.

Add to section 241.11 Cover Letter

242.11 A cover letter must be included online or enclosed with each printed questionnaire that clearly explains the discontinuance process and why the Postal Service is investigating the possible discontinuance of a facility. The cover letter should include information about

the distance to nearby retail facilities, their hours, alternative access channels, and how customers can request curbside delivery. **The customer should be notified if this will be at a centralized delivery point.** The cover letter should also notify the customer of any possible change in delivery and retail services, and any changes to PO Box fees. **The letter should include the website address of the Discontinuance Study website with a brief listing of the information that will be posted there.**

Add to section 241.12 Questionnaire

241.12 The customer questionnaire containing the name of the retail facility under study and customer's address should be mailed to all PO Box and carrier delivery customers in the ZIP Code area of the facility under study. The questionnaire should also be mailed to all customers in other ZIP Codes to whom the retail facility under study provides allied delivery services, such as retrieval of held mail. The mailing should include the cover letter, customer questionnaire, copy of the Summary of the Postal Service Retail Facility Change Regulations, and a pre-addressed postage paid envelope for return of the questionnaire. The questionnaire, customer letter, and *Summary of Postal Service Retail Facility Change Regulations* should be posted in the lobby of the affected retail facility with an indication that copies are available upon request. **It should also be posted on the Discontinuance Study website under the study office's name.**

Add to Section 243

243 After the response deadline expires, the Discontinuance Coordinator timely prepares a questionnaire analysis. **This questionnaire analysis should be posted as one item of information for this study on the Discontinuance Study website.** Maintain copies of returned questionnaires and response letters for inclusion in the official record, including those submitted after the deadline. (Written customer comments submitted at any time, and responses, should become part of the official record.)

Change Section 251

251 A community meeting can be held any time after the questionnaire is sent (see 242.12), **but must be enough in advance of when a final determination is expected to be made as to allow time for the input from the meeting to be fully evaluated. A community meeting will be held** unless otherwise authorized by the Vice President, Area Operations, or the Vice President, Delivery and Post Office Operations. A community meeting should be forgone only where exceptional circumstances make a community meeting infeasible, such as where the community no longer exists because of a natural disaster or because residents have moved elsewhere.

At the community meeting, customers should be provided with an explanation for the proposed change in service. State the advantages and disadvantages for customers and for the Postal Service (for example, tell customers whether their address will be affected, whether PO Box fees will change if they choose service at a neighboring retail facility, **and whether a change to rural delivery service will be to a centralized delivery point.**)

Make it clear that no final decision has been made. Do not argue or raise your voice with customers. Always tell them the truth. If the answer to a customer's question is not apparent, obtain the customer's name and address and respond in writing after the meeting. **While at the meeting,** make notes of customer concerns and responses for inclusion in the

official record. **Notify the participants that you plan on taping the discussion unless someone objects.** Immediately terminate the meeting if you feel your safety or the safety of others is at risk.

Change section 251.2

251.2 Notify customers of the community meeting date, time, and location at least five to seven days in advance. If you receive information that the time is inconvenient for most customers, reschedule the meeting at a more convenient time. **If the Postmaster or OIC indicates that there are two distinct groups of customers that could only participate at different times, consider whether a second meeting is warranted in order to obtain the most community participation.**

Notice of the meeting should be included in the cover letter of the questionnaire if at all possible. The local media should be notified of the time and place of the meeting. A notice of the time and place of the meeting should be posted on the Discontinuance Study website at least five to seven days in advance.

Section 253 c should be clarified

253 c The District Manager or MPOO conducts the Management Presentation and provides responses to customer questions.

If, as the Postal Service witness testified, this job can be delegated by the District Manager or MPOO that should be clearly stated along with the type of employee that it can be delegated to.

Section 262 should be changed to 262.1 and section 262.2 should be added.

262.2 The Postal Service's responses to customer concerns (both from the questionnaires and the meeting) should be posted on the Discontinuance Study website to keep customers informed of changes in the proposal as alternatives evolve.

The proposal checklist discussed at 311.2 should be made an appendix of the PO 101 Handbook.

Section 311.2 should be changed

311.2 When investigation of the feasibility of a possible discontinuance reaches the stage where a formal proposal to discontinue an independent Post Office, Classified Station, or Classified Branch is prepared for posting, the Discontinuance Coordinator must thoroughly review the proposal and supporting record before the 60-day posting period. The Discontinuance Coordinator must complete a proposal checklist to certify that the review has been conducted and that all necessary investigation has been undertaken and documented in the official record. **This completed checklist should be posted on the Discontinuance Study website.**

Section 321.1 should be changed

321.1 It is the policy of the government, as established by law, that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where Post Offices are not self-sustaining. The proposal should compare and contrast postal services available before and after proposed change;

describe how the changes respond to postal needs of the affected customers; and highlight particular aspects of customer service that might be more or less advantageous to respective customers. The proposal should include information about distance to nearby retail facilities (including driving distance for rural facilities), their hours, alternative access channels, and how customers can request curbside delivery. If curbside delivery will be accomplished using a centralized delivery point, that should be noted. A walkability study should be performed in areas where it is likely that customers access the post office by walking.

Section 321.2 should be changed

321.2 The proposal must include an analysis of the effect the proposed discontinuance might have on the community served by the retail facility. This should include a demographic profile of the area served by the study facility to assure that low income, elderly and minority residents are not disproportionately impacted by the discontinuances.

Section 321.4 should be changed

321.4 The proposal must include an analysis of the economic savings to the Postal Service from the proposed action, including the added expense or cost savings expected from each major factor contributing to the overall estimate. This should include a breakdown of operating expenses and economic savings.

Section 321.8 should be added

321.8 The proposal should be posted on the Discontinuance Study website.

Section 334 should be amended to add

A complete copy of the record should be posted on the Discontinuance Study website.

V. Conclusion

For the reasons explained more fully above, the Commission should find that the RAO Initiative does not conform to the policies of Title 39. Specifically, the Commission should find that the Initiative by design and impact results in the closing of post offices solely for operating at a deficit in violation of Section 101(b). Additionally, the Commission should find that the RAO Initiative unduly and unreasonably discriminates against users of the mail in violation of Section 403(c) of the Act.

In order to mitigate these violations, the Commission should direct the Postal Service to revise the RAOI selection criteria and to make revisions to the Handbook PO-101 as described above.

Respectfully submitted,

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